

## REMARKS

Claim 40 calls for inserting, in the course of a broadcast of a program, a control signal to receivers to record a replay.

Woo plainly teaches away from the claimed invention. Woo teaches a dual system in which TV stations broadcast video and Woo's system broadcasts separate indications to record portions of separately broadcast television programs by the TV stations. He does this in two separate systems because he uses actual people to monitor on-going broadcasts and to decide when to record the programs. See the bottom of column 1 and the top of column 2. This could hardly teach inserting the record queue within the actual television broadcast. Instead, it teaches away. It provides the reason why one would not want to include the record signal in the course of the television broadcast, because to do so would disable the human operators from actually deciding when to record.

The office action concedes that Woo fails to specifically teach that the recording command is transmitted together with video information. See office action, page 3 under paragraph 4. However, the office action suggests that somehow, despite Woo's teaching away, this deficiency is remedied by Vogel. Of course, the problem with Vogel is that Vogel has nothing to do with recording television programs. The office action, in the last paragraph that begins on page 3, suggests that Vogel teaches "means for inserting command code (indicating signal), which separately received from a monitor, in a vertical interval of a video transmission to control a recorder to record a selected portion of a video transmission indicating by a start command (Fig. 3, line 5, lines 30-50)." This is not a correct statement of what Vogel teaches. Certainly, if Vogel taught such a thing, the Examiner would not even need to cite Woo. All Vogel suggests is transmitting a queue identifying a commercial.

The material at lines 30-50 of column 5, cited by the Examiner, is set forth in full below to demonstrate that the alleged teaching in the following material is nowhere present.

Referring to Fig. 1, broadcast signals are received by antenna 1, and passed via VCR 3 to television receiver 2, where they can be viewed in the conventional manner. The video output of VCR 3 includes a composite video signal, including in its vertical blanking interval a signal indicating the type of material being received. In this embodiment, the indicating signal is embedded into the broadcast vertical interval of the synchronizing

signal by the broadcaster. The indicating signal may be present continuously, or only during certain times, as desired by the broadcaster. Typically, the indicating signal would be present during broadcast of movies or drama, and would indicate whether the current broadcast is programme or non-programme material. The indicating signal is transmitted repeatedly and frequently, a minimum of once per second in this embodiment, so that proper operation can be ensured from the moment of enabling the system at a particular user's station. It may also be desirable to transmit the indicating signal about one second in advance of changes in type, to allow for response time of recording equipment.

[Emphasis added]. See Vogel patent at column 5, lines 30-50. Clearly, the indicated material is not a command to record anything, but simply indicates whether or not a commercial is being broadcast. At most, Vogel suggests what not to record, rather than what should be recorded, if it were even applicable to making a recording decision.


In sum, the obviousness rejection amounts to a combination of two references, neither of which teach the claimed invention. More importantly, both of the cited references explicitly teach away. Woo suggests separately transmitting the record signal because Woo uses human operators to decide what should be indicated to be recorded and what should not be recorded. Therefore, Woo would never want to try to provide his signals with the broadcast itself. Vogel simply identifies commercials. At best, he suggests what not to record, rather than what to record. Given that both references teach away directly from the claimed invention, there cannot be any possible rationale to modify one of the references to meet the claimed invention. Moreover, there is no rationale to combine the two references to come up with anything. In addition, even if the references were combined, they must be combined and modified to meet the claimed invention. That is because nothing teaches sending the record signal with the video and nothing teaches any rationale to do so.

With respect to the discussion in the office action on page 4 about monitoring a replay, it is not clear what relationship this discussion has to the claimed invention.

In view of these remarks, the application should now be in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested.

Respectfully submitted,

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